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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.1865 OF 2005**

Trimac Machinery Mfg. Co. Pvt. Ltd. ... Petitioner

V/s.

Brij Kishore Singh ... Respondent

Mr.A.K. Jalisatgi for Petitioner
Mr.D.S. Joshi for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 6, 2005**

**P.C.:**

. This Petition challenges the order passed by the Labour Court on various grounds. The Respondent-workman had claimed the amounts towards overtime wages, leave wages and bonus for 4 years. The Labour Court allowed the application restricting the claim to Rs.2,25,000/- towards overtime wages and leave wages with interest @3% per annum from the date of the application till realisation. The claim for bonus has been rejected. The Labour Court has given cogent reasons for accepting the Respondent's claim for leave wages. However, with respect to overtime wages, the Labour Court has ignored an admission of the Respondent. The respondent-workman in his cross-examination has stated that he worked overtime for two years. Therefore, his claim for

overtime wages for four years is inflated. The Labour Court ought to have considered this position before allowing the entire claim towards overtime wages. The amount of Rs.2,16,000/- payable as overtime wages for the period of four years will have to be restricted for a period of two years. The respondent will thus be entitled to overtime wages of Rs.1,08,000/-. As regards leave wages, he has already been paid Rs.6,000/- on various occasions. Therefore, he is entitled to a balance of Rs.3,000/- as leave wages.

2. The Labour Court also awarded interest @3% per annum till the date of realisation. There are differing judgments as to whether the Labour Court in an application under section 33-C(2) can grant interest. The Punjab & Haryana High Court in the case of *Pritam Singh v/s. Presiding Officer, Labour Court, Union Territory of Chandigarh & Anr.*, **2001 (4) LLN 77** has taken a view that arrears due to an employee cannot be treated as bounty but it is a valuable right of the employee and for delayed payment of arrears, the employee is entitled to interest. However, a learned Single Judge of this Court in the case of *Payal Electronics v/s. Arun Vasant Pawar & Anr.*, **2002 III CLR 328** has taken a view that since there is no existing right to interest on amounts due and payable to a

workman, the Labour Court could not award interest.

3. In my view, considering the facts and circumstances of the case, it would be appropriate to direct the Petitioner to pay an amount of Rs.111,000/- towards his claim for overtime wages and leave wages. The Respondent is also entitled to costs of this petition quantified at Rs.4,000/- An amount of Rs.225,000/- has already been deposited in this Court pursuant to the directions of this Court. The Respondent is at liberty to withdraw the amount of Rs.115,000/- (Rupees One lakh fifteen thousand only) from the amount of Rs.225,000/-. The balance shall be paid over to the Petitioner.

4. Writ Petition is disposed off accordingly.